

Article 5.

Hospital Licensure Act.

Part 1. Article Title and Definitions.

**§ 131E-75. Title; purpose.**

(a) This Article shall be known as the "Hospital Licensure Act."

(b) The purpose of this article is to establish hospital licensing requirements which promote public health, safety and welfare and to provide for the development, establishment and enforcement of basic standards for the care and treatment of patients in hospitals. (1947, c. 933, s. 6; 1983, c. 775, s. 1.)

**§ 131E-76. Definitions.**

As used in this article, unless otherwise specified:

- (1) "Commission" means the North Carolina Medical Care Commission.
- (1a) "Critical access hospital" means a hospital which has been designated as a critical access hospital by the North Carolina Department of Health and Human Services, Office of Research, Demonstrations and Rural Health Development. To be designated as a critical access hospital under this subdivision, the hospital must be certified as a critical access hospital pursuant to 42 CFR Part 485 Subpart F. The North Carolina Department of Health and Human Services, Office of Research, Demonstrations, and Rural Health Development may designate a hospital located in a Metropolitan Statistical Area as a rural hospital for the purposes of the critical access hospital program if the hospital is located in a county with twenty-five percent (25%) or more rural residents as defined by the most recent United States decennial census.
- (1b) through (1d) Reserved for future codification purposes.
- (1e) "Gastrointestinal endoscopy room" means a room used for the performance of procedures that require the insertion of a flexible endoscope into a gastrointestinal orifice to visualize the gastrointestinal lining and adjacent organs for diagnostic or therapeutic purposes.
- (2) "Governing body" means the Board of Trustees, Board of Directors, partnership, corporation, association, person or group of persons who maintain and control the hospital. The governing body may or may not be the owner of the properties in which the hospital services are provided.
- (3) "Hospital" means any facility which has an organized medical staff and which is designed, used, and operated to provide health care, diagnostic and therapeutic services, and continuous nursing care primarily to inpatients where such care and services are rendered under the supervision and direction of physicians licensed under Chapter 90 of the General Statutes, Article 1, to two or more persons over a period in excess of 24 hours. The term includes facilities for the diagnosis and treatment of disorders within the scope of specific health specialties. The term does not include private mental facilities licensed under Article 2 of Chapter 122C of the General Statutes, nursing homes licensed under G.S. 131E-102, adult care homes licensed under Part 1 of Article 1 of Chapter 131D of the General Statutes, and any outpatient department including a portion of a hospital operated as an outpatient department, on or off of the hospital's

main campus, that is operated under the hospital's control or ownership and is classified as Business Occupancy by the Life Safety Code of the National Fire Protection Association as referenced under 42 C.F.R. § 482.41. Provided, however, if the Business Occupancy outpatient location is to be operated within 30 feet of any hospital facility, or any portion thereof, which is classified as Health Care Occupancy or Ambulatory Health Care Occupancy under the Life Safety Code of the National Fire Protection Association, the hospital shall provide plans and specifications to the Department for review and approval as required for hospital construction or renovations in a manner described by the Department.

- (4) "Infirmary" means a unit of a school, or similar educational institution, which has the primary purpose to provide limited short-term health and nursing services to its students.
- (5) "Medical review committee" means any of the following committees formed for the purpose of evaluating the quality, cost of, or necessity for hospitalization or health care, including medical staff credentialing:
  - a. A committee of a state or local professional society.
  - b. A committee of a medical staff of a hospital.
  - c. A committee of a hospital or hospital system, if created by the governing board or medical staff of the hospital or system or operating under written procedures adopted by the governing board or medical staff of the hospital or system.
  - d. A committee of a peer review corporation or organization.
- (6) Renumbered.
- (6a) "Operating room" means a room used for the performance of surgical procedures requiring one or more incisions and that is required to comply with all applicable licensure codes and standards for an operating room.
- (7) "Rural hospital network" means an alliance of members that shall include at least one critical access hospital and one other hospital. To qualify as a rural hospital network, the critical access hospital must submit a comprehensive, written memorandum of understanding to the Department of Health and Human Services, Office of Research, Demonstrations and Rural Health Development, for the Department's approval. The memorandum of understanding must include provisions for patient referral and transfer, a plan for network-wide emergency services, and a plan for sharing patient information and services between hospital members including medical staff credentialing, risk management, quality assurance, and peer review. (1947, c. 933, s. 6; 1949, c. 920, s. 1; 1955, c. 369; 1961, c. 51, s. 1; 1973, c. 476, s. 152; 1983, c. 775, s. 1; 1985, c. 589, s. 41; 1993, c. 321, s. 245; 1995, c. 535, s. 20; 1997-443, s. 11A.118(a); 2004-149, ss. 1.1, 2.4; 2004-199, s. 49; 2005-346, ss. 1, 2; 2009-462, s. 4(j); 2009-487, s. 4(a).)

## Part 2. Hospital Licensure.

### § 131E-77. Licensure requirement.

(a) No person or governmental unit shall establish or operate a hospital in this state without a license. An infirmary is not required to obtain a license under this Part.

(b) The Commission shall prescribe by rule that any licensee or prospective applicant seeking to make specified types of alteration or addition to its facilities or to construct new facilities shall submit plans and specifications before commencement to the Department for preliminary inspection and approval or recommendations with respect to compliance with the applicable rules under this Part.

(c) An applicant for licensing under this Part shall provide information related to hospital operations as requested by the Department. The required information shall be submitted by the applicant on forms provided by the Department and established by rule.

(d) Upon receipt of an application for a license, the Department shall issue a license if it finds that the applicant complies with the provisions of this Article and the rules of the Commission. The Department shall renew each license in accordance with the rules of the Commission. The Department shall charge the applicant a nonrefundable annual base license fee plus a nonrefundable annual per-bed fee as follows:

<b>Facility Type</b>	<b>Number of Beds</b>	<b>Base Fee</b>	<b>Per-Bed Fee</b>
General Acute Hospitals:	1-49 beds	\$250.00	\$17.50
	50-99 beds	\$350.00	\$17.50
	100-199 beds	\$450.00	\$17.50
	200-399 beds	\$550.00	\$17.50
	400-699 beds	\$750.00	\$17.50
	700+ beds	\$950.00	\$17.50
Other Hospitals:		\$500.00	\$17.50

(e) The Department shall issue the license to the operator of the hospital who shall not transfer or assign it except with the written approval of the Department. The license shall designate the number and types of inpatient beds, the number of operating rooms, and the number of gastrointestinal endoscopy rooms.

(e1) Any license issued by the Department shall include only facilities (i) operated by the hospital within a single county and (ii) operated by the hospital in an immediately adjoining county; provided, however, that facilities operated by a hospital in an immediately adjoining county shall only be included within the same hospital license if the applicant hospital demonstrates all of the following to the satisfaction of the Department:

- (1) There was previously only one hospital licensed by the Department providing inpatient services in the immediately adjoining county.
- (2) The licensed hospital in the immediately adjoining county described in subdivision (1) of this subsection closed or otherwise ceased providing hospital services to patients no more than three years prior to the date the applicant hospital first applied to license a facility in such immediately adjoining county.

If the Department approves a hospital's initial request to include within its hospital license a facility in an immediately adjoining county, then any other hospital services thereafter developed and operated by the applicant in such immediately adjoining county in accordance with applicable law may also be included within and covered by the license issued to the applicant by the Department.

(f) The operator shall post the license on the licensed premises in an area accessible to the public. (1947, c. 933, s. 6; 1949, c. 920, ss. 3, 4; 1963, c. 66; 1973, c. 476, s. 152; c. 1090, s. 1; 1975, c. 718, s. 2; 1983, c. 775, s. 1; 2003-284, s. 34.2(a); 2005-276, s. 41.2(b); 2005-346, s. 3; 2009-451, s. 10.76(e); 2011-145, s. 18.10(c); 2011-391, s. 42.1; 2016-94, s. 12G.3(a); 2017-57, s. 11G.2(a).)

**§ 131E-78. Adverse action on a license.**

(a) The Department shall have the authority to deny, suspend, revoke, annul, withdraw, recall, cancel, or amend a license in any case when it finds a substantial failure to comply with the provisions of this Part or any rule promulgated under this Part.

(b) Repealed by Session Laws 2007-444, s. 1, effective August 23, 2007.

(b1) The Secretary may suspend the admission of any new patients to specific areas of a hospital or suspend specific services of a hospital licensed under this Article where the conditions of the hospital constitute a substantial failure to comply with the provisions of this Part or any rule adopted under this Part and are dangerous to the health or safety of the patients. When the Secretary suspends admissions or specific services, the suspension shall be limited to the smallest possible components of the hospital. The Department shall provide consultation to assist the hospital in correcting the conditions that led to the suspension in order that the suspension can be lifted at the earliest possible time after the Secretary is satisfied that conditions or circumstances merit removal of the suspension. In determining whether to suspend admissions or services under this subsection, the Secretary shall consider the following factors:

- (1) The character and degree of impact of the conditions at the hospital on the health and safety of its patients.
- (2) The character and degree of impact that the proposed suspension of admissions or services would have on the functionality of the hospital and the availability of services necessary to the community or to current patients of the hospital.
- (3) Whether all other reasonable means for correcting the problem have been exhausted and no less restrictive alternative to suspension of admissions or service exists.

(c) Repealed by Session Laws 2007-444, s. 1, effective August 23, 2007.

(c1) A hospital may contest any adverse action on its license under this section in accordance with Chapter 150B of the General Statutes. (1947, c. 933, s. 6; 1973, c. 476, s. 152; c. 1090, s. 1; 1981, c. 614, ss. 16, 17; 1983, c. 775, s. 1; 1987, c. 827, s. 1; 2007-444, s. 1.)

**§ 131E-78.1:** Reserved for future codification purposes.

**§ 131E-78.2:** Reserved for future codification purposes.

**§ 131E-78.3:** Reserved for future codification purposes.

**§ 131E-78.4:** Reserved for future codification purposes.

**§ 131E-78.5. Designation as primary stroke center.**

(a) The Department shall designate as a primary stroke center any hospital licensed under this Article that demonstrates to the Department that the hospital is certified by the

Joint Commission or other nationally recognized accrediting body that requires conformance to best practices for stroke care in order to be identified as a primary stroke center. A hospital that is certified by the Joint Commission or other nationally recognized accrediting body that requires conformance to best practices for stroke care in order to be identified as a primary stroke center shall report the certification to the Department within 90 days of receiving that certification. A hospital shall inform the Department of any changes to its certification status within 30 days of any change.

(b) Each hospital designated as a primary stroke center pursuant to this section shall make efforts to coordinate the provision of appropriate acute stroke care with other hospitals licensed in this State through a formal written agreement. The agreement shall, at a minimum, address (i) transportation of acute stroke patients to hospitals designated as primary stroke centers and (ii) acceptance by hospitals designated as primary stroke centers of acute stroke patients initially treated at hospitals that are not capable of providing appropriate stroke care.

(c) The Department shall maintain within the Division of Health Service Regulation, Office of Emergency Services, a list of the hospitals designated as primary stroke centers in accordance with this section and post the list on the Department's Internet Web site. Annually on June 1, the Department shall transmit this list to the medical director of each licensed emergency medical services provider in this State.

(d) A hospital licensed under this Article shall not advertise or hold itself out to the public as a primary stroke center unless certified as a primary stroke center by the Joint Commission or other nationally recognized accrediting body that requires conformance to best practices for stroke care in order to be identified as a primary stroke center.

(e) Nothing in this section shall be construed to do any of the following:

(1) Establish a standard of medical practice for stroke patients.

(2) Restrict in any way the authority of any hospital to provide services authorized under its hospital license.

(f) The Department may adopt rules to implement the provisions of this section. (2013-44, s. 1.)

#### **§ 131E-79. Rules and enforcement.**

(a) The Commission shall promulgate rules necessary to implement this Article.

(b) The Department shall enforce this Article and the rules of the Commission. (1947, c. 933, s. 6; 1973, c. 476, s. 152; 1983, c. 775, s. 1.)

#### **§ 131E-79.1. Counseling patients regarding prescriptions.**

(a) Any hospital or other health care facility licensed pursuant to this Chapter or Chapter 122C of the General Statutes, health maintenance organization, local health department, community health center, medical office, or facility operated by a health care provider licensed under Chapter 90 of the General Statutes, providing patient counseling by a physician, a registered nurse, or any other appropriately trained health care professional shall be deemed in compliance with the rules adopted by the North Carolina Board of Pharmacy regarding patient counseling.

(b) As used in this section, "patient counseling" means the effective communication of information to the patient or representative in order to improve therapeutic outcomes by maximizing proper use of prescription medications and devices. (1993, c. 529, s. 7.7.)

**§ 131E-79.2. Educating parents of newborns regarding pertussis disease.**

(a) Each hospital licensed under this Article shall provide to the parents of newborns delivered at the hospital free, medically accurate educational information about pertussis disease and the availability of the tetanus-diphtheria and pertussis (Tdap) vaccine to protect against pertussis disease. The hospital shall provide this educational information to parents during the postpartum period and prior to the mother's discharge from the hospital. As used in this section, "postpartum period" means the period of time between the mother's admittance to the hospital for delivery of the newborn child through the first few hours after childbirth.

(b) The educational information provided to parents pursuant to this section shall include, at a minimum, the most current recommendations of the Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices regarding the use of tetanus-toxoid-diphtheria-acellular pertussis (Tdap) vaccine to reduce the burden of pertussis in infants.

(c) Nothing in this section shall be construed to require a hospital to provide or pay for any vaccination against pertussis disease. (2013-161, s. 1.)

**§ 131E-80. Inspections.**

(a) The Department shall make or cause to be made inspections as it may deem necessary. Any hospital licensed under this Part shall at all times be subject to inspections by the Department according to the rules of the Commission. Except as provided under G.S. 131E-77(b) of this Part, after the hospital's initial licensing, any location included or added to the hospital's accreditation through an accrediting body approved pursuant to section 1865(a) of the Social Security Act, shall be deemed to be part of the hospital's license; provided, however, that all locations may be subject to inspections which the Department deems necessary to validate compliance with the requirements set forth in this Part.

(b) The Department may delegate to any state officer or agency the authority to inspect hospitals. The Department may revoke this delegated authority at its discretion and make its own inspections.

(c) Authorized representatives of the Department shall have at all times the right of proper entry upon any and all parts of the premises of any place in which entry is necessary to carry out the provisions of this Part or the rules adopted by the Commission; and it shall be unlawful for any person to resist a proper entry by such authorized representative upon any premises other than a private dwelling. However, no representative shall, by this entry onto the premises, endanger the health or well being of any patient being treated in the hospital.

(d) To enable the Department to determine compliance with this Part and the rules promulgated under the authority of this Part and to investigate complaints made against a hospital licensed under this Part, while maintaining the confidentiality of the complainant, the Department shall have the authority to review any writing or other record in any recording medium which pertains to the admission, discharge, medication, treatment, medical condition, or history of persons who are or have been patients of the hospital licensed under this Part and the personnel

records of those individuals employed by the licensed hospital. The examinations of these records is permitted notwithstanding the provisions of G.S. 8-53, "Communications between physician and patient," or any other provision of law relating to the confidentiality of communications between physician and patient. Proceedings of medical review committees are exempt from the provisions of this section. The hospital, its employees, and any person interviewed during these inspections shall be immune from liability for damages resulting from the disclosure of any information to the Department. Any confidential or privileged information received from review of records or interviews shall be kept confidential by the Department and not disclosed without written authorization of the patient, employee or legal representative, or unless disclosure is ordered by a court of competent jurisdiction. The Department shall institute appropriate policies and procedures to ensure that this information shall not be disclosed without authorization or court order. The Department shall not disclose the name of anyone who has furnished information concerning a hospital without the consent of that person. Any officer, administrator, or employee of the Department who willfully discloses confidential or privileged information without appropriate authorization or court order shall be guilty of a Class 3 misdemeanor and upon conviction shall only be fined in the discretion of the court but not in excess of five hundred dollars (\$500.00). Neither the names of persons furnishing information nor any confidential or privileged information obtained from records or interviews shall be considered "public records" within the meaning of G.S. 132-1, "Public Records" defined.

(e) Information received by the Commission and the Department through filed reports, license applications, or inspections that are required or authorized by the provisions of this Part, may be disclosed publicly except where this disclosure would violate the confidential relationship existing between physician and patient. However, no such public disclosure shall identify the patient involved without permission of the patient or court order. (1947, c. 933, s. 6; 1973, c. 476, s. 152; c. 1090, s. 1; 1981, c. 586, s. 3; 1983, c. 775, s. 1; 1993, c. 539, s. 957; 1994, Ex. Sess., c. 24, s. 14(c); 2009-487, s. 4(b).)

#### **§ 131E-81. Penalties.**

(a) Any person establishing, conducting, managing, or operating any hospital without a license shall be guilty of a Class 3 misdemeanor, and upon conviction shall only be liable for a fine of not more than fifty dollars (\$50.00) for the first offense and not more than five hundred dollars (\$500.00) for each subsequent offense. Each day of a continuing violation after conviction shall be considered a separate offense.

(b) Except as otherwise provided in this Part, any person who willfully violates any provision of this Part or who willfully fails to perform any act required, or who willfully performs any act prohibited by this Part, shall be guilty of a Class 1 misdemeanor. However, any person who willfully violates any rule adopted by the Commission under this Part or who willfully fails to perform any act required by, or who willfully does any act prohibited by, these rules shall be guilty of a Class 3 misdemeanor. (1947, c. 933, s. 6; 1983, c. 775, s. 1; 1993, c. 539, s. 958; 1994, Ex. Sess., c. 24, s. 14(c).)

#### **§ 131E-82. Injunction.**

(a) Notwithstanding the existence or pursuit of any other remedy, the Department may, in the manner provided by law, maintain an action in the name of the State for injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, management or operation of a hospital without a license.

(b) If any person shall hinder the proper performance of duty of the Secretary or a representative in carrying out the provisions of this Part, the Secretary may institute an action in the superior court of the county in which the hindrance occurred for injunctive relief against the continued hindrance, irrespective of all other remedies at law.

(c) Actions under this section shall be in accordance with Article 37 of Chapter 1 of the General Statutes, and Rule 65 of the Rules of Civil Procedure. (1947, c. 933, s. 6; 1973, c. 476, s. 152; 1983, c. 775, s. 1.)

**§ 131E-83. Temporary change of hospital bed capacity.**

A hospital may temporarily increase its bed capacity by up to ten percent (10%) over its licensed bed capacity by utilizing observation beds for hospital inpatients if the hospital notifies and obtains the approval of the Division of Health Service Regulation. For purposes of this section, "temporarily" means not longer than 60 consecutive days. (2001-410, s. 1; 2007-182, s. 1.)

**§ 131E-84. Waiver of rules for hospitals that provide temporary shelter or temporary services during a disaster or emergency.**

(a) The Division of Health Service Regulation may temporarily waive, during disasters or emergencies declared in accordance with Article 1A of Chapter 166A of the General Statutes, any rules of the Commission pertaining to a hospital to the extent necessary to allow the hospital to provide temporary shelter and temporary services requested by the emergency management agency. The Division may identify, in advance of a declared disaster or emergency, rules that may be waived, and the extent to which the rules may be waived, upon a declaration of disaster or emergency in accordance with Article 1A of Chapter 166A of the General Statutes. The Division may also waive rules under this subsection during a declared disaster or emergency upon the request of an emergency management agency and may rescind the waiver if, after investigation, the Division determines the waiver poses an unreasonable risk to the health, safety, or welfare of any of the persons occupying the hospital. The emergency management agency requesting temporary shelter or temporary services shall notify the Division within 72 hours of the time the preapproved waivers are deemed by the emergency management agency to apply.

(b) As used in this section, "emergency management agency" is as defined in G.S. 166A-19.3. (2007-444, s. 2; 2012-12, s. 2(t).)

**§ 131E-84.1. Human trafficking public awareness sign.**

Each hospital licensed under this Article shall prominently display in its emergency room or emergency department in a place that is clearly conspicuous and visible to employees and the public a public awareness sign created and provided by the North Carolina Human Trafficking Commission that contains the National Human Trafficking Resource hotline information. (2017-57, s. 17.4(d); 2017-197, s. 5.8.)

**Part 3. Hospital Privileges.**

**§ 131E-85. Hospital privileges and procedures.**



(a) The granting or denial of privileges to practice in hospitals to physicians licensed under Chapter 90 of the General Statutes, Article 1, dentists, optometrists, and podiatrists and the scope and delineation of such privileges shall be determined by the governing body of the hospital on a non-discriminatory basis. Such determinations shall be based upon the applicant's education, training, experience, demonstrated competence and ability, and judgment and character of the applicant, and the reasonable objectives and regulations of the hospital, including, but not limited to appropriate utilization of hospital facilities, in which privileges are sought. Nothing in this Part shall be deemed to mandate hospitals to grant or deny to any such individuals or others privileges to practice in hospitals, or to offer or provide any type of care.

(b) The procedures to be followed by a licensed hospital in considering applications of dentists, optometrists, and podiatrists for privileges to practice in such hospitals shall be similar to those applicable to applications of physicians licensed under Chapter 90 of the General Statutes, Article 1. Such procedures shall be available upon request.

(c) In addition to the granting or denial of privileges, the governing body of each hospital may suspend, revoke, or modify privileges.

(d) All applicants or individuals who have privileges shall comply with all applicable medical staff bylaws, rules and regulations, including the policies and procedures governing the qualifications of applicants and the scope and delineation of privileges.

(e) The Department shall not issue or renew a license under this Article unless the applicant has demonstrated that the procedures followed in determining hospital privileges are in accordance with this Part and rules of the Department. (1981, c. 659, s. 10; 1983, c. 775, s. 1; 1987, c. 859, s. 18; 1989, c. 446; 1997-75, s. 2.)

#### **§ 131E-86. Limited privileges.**

(a) It shall be unlawful for an individual who is not licensed under Chapter 90 of the General Statutes, Article 1, to admit a patient to a hospital without written proof in accordance with the policy of the governing body of the hospital that a physician licensed under Chapter 90 of the General Statutes, Article 1, who is a member of the medical staff will be responsible for the performance of a basic medical appraisal and for the medical needs of the patient. The governing body of a hospital may waive this requirement for a dentist licensed under Chapter 90 of the General Statutes, Article 2, to the extent authorized by this statute, who has successfully completed a postgraduate program in oral and maxillofacial surgery accredited by the American Dental Association.

(b) The governing body of each hospital shall not grant privileges that exceed the scope of a license. (1983, c. 775, s. 1.)

#### **§ 131E-87. Reports of disciplinary action; immunity from liability.**

The chief administrative officer of each licensed hospital in the State shall report to the appropriate occupational licensing board the details, as prescribed by the board, of any revocation, suspension, limitation, or voluntary reduction of privileges of a health care provider to practice in that hospital. Each hospital shall also report to the board its medical staff resignations. Reports concerning physician privileges and resignations shall be made in accordance with G.S. 90-14.13. Any person making a report required by this section shall be immune from any resulting criminal prosecution or civil liability unless the person knew the report was false or acted in reckless disregard of whether the report was false. (1983, c. 775, s. 1; 1987, c. 859, s. 16; 2006-144, s. 9.)

**§ 131E-88. Reserved for future codification purposes.**

**§ 131E-89. Reserved for future codification purposes.**

Part 4. Discharge from Hospital.

**§ 131E-90. Authority of administrator; refusal to leave after discharge.**

The case of a patient who refuses or fails to leave the hospital upon discharge by the attending physician shall be reviewed by two physicians licensed to practice medicine in this State, one of whom may be the attending physician. If in the opinion of the physicians, the patient should be discharged as cured or as no longer needing treatment or for the reason that treatment cannot benefit the patient's case or for other good and sufficient reasons, the patient's refusal to leave shall constitute a trespass. The patient shall be guilty of a Class 3 misdemeanor. (1965, c. 258; 1983, c. 775, s. 1; 1993, c. 539, s. 959; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 131E-91. Fair billing and collections practices for hospitals and ambulatory surgical facilities.**

(a) All hospitals and ambulatory surgical facilities licensed pursuant to this Chapter shall, upon request of the patient, present an itemized list of charges to all discharged patients detailing in language comprehensible to an ordinary layperson the specific nature of the charges or expenses incurred by the patient. Patient bills that are not itemized shall include notification to the patient of the right to request, free of charge, an itemized bill. A patient may request an itemized list of charges at any time within three years after the date of discharge or so long as the hospital or ambulatory surgical facility, a collections agency, or another assignee of the hospital or ambulatory surgical facility asserts the patient has an obligation to pay the bill. Each hospital and ambulatory surgical facility shall establish a method for patients to inquire about or dispute a bill.

(b) If a patient has overpaid the amount due to the hospital or ambulatory surgical facility, whether as the result of insurance coverage, patient error, health care facility billing error, or other cause, and the overpayment is not in dispute or on appeal, the hospital or ambulatory surgical facility shall provide the patient with a refund within 45 days of receiving notice of the overpayment.

(c) A hospital or ambulatory surgical facility shall not bill insured patients for charges that would have been covered by their insurance had the hospital or ambulatory surgical facility submitted the claim or other information required to process the claim within the allotted time requirements of the insurer.

(d) Hospitals and ambulatory surgical facilities shall abide by the following reasonable collections practices:

- (1) A hospital or ambulatory surgical facility shall not refer a patient's unpaid bill to a collections agency, entity, or other assignee during the pendency of a patient's application for charity care or financial assistance under the hospital's or ambulatory surgical facility's charity care or financial assistance policies.

- (2) A hospital or ambulatory surgical facility shall provide a patient with a written notice that the patient's bill will be subject to collections activity at least 30 days prior to the referral being made.
- (3) A hospital or ambulatory surgical facility that contracts with a collections agency, entity, or other assignee shall require the collections agency, entity, or other assignee to inform the patient of the hospital's or ambulatory surgical facility's charity care and financial assistance policies when engaging in collections activity.
- (4) A hospital or ambulatory surgical facility shall require a collections agency, entity, or other assignee to obtain the written consent of the hospital or ambulatory surgical facility prior to the collections agency, entity, or other assignee filing a lawsuit to collect the debt.
- (5) For debts arising from the provision of care by a hospital or ambulatory surgical center, the doctrine of necessities as it existed at common law shall apply equally to both spouses, except where they are permanently living separate and apart, but shall in no event create any liability between the spouses as to each other. No lien arising out of a judgment for a debt owed a hospital or ambulatory surgical facility under this section shall attach to the judgment debtors' principal residence, or, if the land upon which the principal residence is located is greater than five acres, then no lien shall attach to the judgment debtors' principal residence and the surrounding five acres, held by them as tenants by the entirety or that was held by them as tenants by the entirety prior to the death of either spouse where the tenancy terminated as a result of the death of either spouse.
- (6) For debts arising from the provision of care by a hospital or ambulatory surgical center to a minor, there shall be no execution on or otherwise forced sale of the principal residence of the custodial parent or parents for a judgment obtained for the outstanding debt until such time as the minor is either no longer residing with the custodial parent or parents or until the minor reaches the age of majority, whichever occurs first.

(e) The Commission shall adopt rules to ensure that this section is properly implemented. The Department shall not issue or renew a license under this Article unless the applicant has demonstrated that the requirements of this subsection are being met. (1991, c. 310, s. 1; 2013-382, s. 13.1; 2013-393, s. 2.)

**§ 131E-92. Reserved for future codification purposes.**

**§ 131E-93. Reserved for future codification purposes.**

**§ 131E-94. Reserved for future codification purposes.**

Part 5. Medical Review Committee.

**§ 131E-95. Medical review committee.**

(a) A member of a duly appointed medical review committee who acts without malice or fraud shall not be subject to liability for damages in any civil action on account of any act, statement or proceeding undertaken, made, or performed within the scope of the functions of the committee.

(b) The proceedings of a medical review committee, the records and materials it produces and the materials it considers shall be confidential and not considered public records within the meaning of G.S. 132-1, " 'Public records' defined", and shall not be subject to discovery or introduction into evidence in any civil action against a hospital, an ambulatory surgical facility licensed under Chapter 131E of the General Statutes, or a provider of professional health services which results from matters which are the subject of evaluation and review by the committee. No person who was in attendance at a meeting of the committee shall be required to testify in any civil action as to any evidence or other matters produced or presented during the proceedings of the committee or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or its members. However, information, documents, or records otherwise available are not immune from discovery or use in a civil action merely because they were presented during proceedings of the committee. Documents otherwise available as public records within the meaning of G.S. 132-1 do not lose their status as public records merely because they were presented or considered during proceedings of the committee. A member of the committee or a person who testifies before the committee may testify in a civil action but cannot be asked about the person's testimony before the committee or any opinions formed as a result of the committee hearings.

(c) Information that is confidential and is not subject to discovery or use in civil actions under this section may be released to a professional standards review organization that performs any accreditation or certification including the Joint Commission on Accreditation of Healthcare Organizations, or to a patient safety organization or its designated contractors. Information released under this subsection shall be limited to that which is reasonably necessary and relevant to the standards review organization's determination to grant or continue accreditation or certification, or the patient safety organization's or its contractors' analysis of patient safety and health care quality. Information released under this subsection retains its confidentiality and is not subject to discovery or use in any civil actions as provided under this section, and the standards review or patient safety organization shall keep the information confidential subject to this section, except as necessary to carry out the organization's patient safety, accreditation, or certification activities. For the purposes of this section, "patient safety organization" means an entity that collects and analyzes patient safety or health care quality data of providers for the purpose of improving patient safety and the quality of health care delivery and includes, but is not limited to, an entity formed pursuant to Public Law No. 109-41. (1973, c. 1111; 1981, c. 725; 1983, c. 775, s. 1; 1999-222, s. 2; 2002-179, s. 19; 2004-149, s. 2.5; 2006-144, s. 3.2.)

**Part 6. Risk Management.**

**§ 131E-96. Risk management programs.**

(a) Each hospital shall develop and maintain a risk management program which is designed to identify, analyze, evaluate, and manage risks of injury to patients, visitors, employees, and property through loss reduction and prevention techniques and quality assurance activities, as prescribed in rules promulgated by the Commission.

(b) The Department shall not issue or renew a license under this Article unless the applicant is in compliance with this section. (1987, c. 859, s. 17.)

#### Part 7. Confidential Information.

##### **§ 131E-97. Confidentiality of patient information.**

(a) Medical records compiled and maintained by health care facilities in connection with the admission, treatment, and discharge of individual patients are not public records as defined by Chapter 132 of the General Statutes.

(b) Charges, accounts, credit histories, and other personal financial records compiled and maintained by health care facilities in connection with the admission, treatment, and discharge of individual patients are not public records as defined by Chapter 132 of the General Statutes. (1993 (Reg. Sess., 1994), c. 570, s. 10.)

##### **§ 131E-97.1. Confidentiality of personnel information.**

(a) Except as provided in subsection (b) of this section, the personnel files of employees or former employees, and the files of applicants for employment maintained by a public hospital as defined in G.S. 159-39 or maintained by a hospital that has been sold or conveyed pursuant to G.S. 131E-8 are not public records as defined by Chapter 132 of the General Statutes.

(b) Repealed by Session Laws, 1997-517, s. 3.

(c) Information regarding the qualifications, competence, performance, character, fitness, or conditions of appointment of an independent contractor who provides health care services under a contract with a public hospital as defined in G.S. 159-39, or with a hospital which has been sold or conveyed pursuant to G.S. 131E-8, is not a public record as defined by Chapter 132 of the General Statutes. Information regarding a hearing or investigation of a complaint, charge, or grievance by or against an independent contractor who provides health care services under a contract with a public hospital as defined in G.S. 159-39 or with a hospital which has been sold or conveyed pursuant to G.S. 131E-8, is not a public record as defined by Chapter 132 of the General Statutes. Final action making an appointment or discharge or removal by a public hospital having final authority for the appointment or discharge or removal shall be taken in an open meeting, unless otherwise exempted by law. The following information with respect to each independent contractor of health care services of a public hospital, as defined by G.S. 159-39, is a matter of public record: name; age; date of original contract; beginning and ending dates; position title; position descriptions; and total compensation of current and former positions; and the date of the most recent promotion, demotion, transfer, suspension, separation, or other change in position classification. (1993 (Reg. Sess., 1994), c. 570, s. 10; 1995, c. 99, s. 1; c. 509, s. 135.2(q); 1997-517, s. 3.)

##### **§ 131E-97.2. Confidentiality of credentialing information.**

Information acquired by a public hospital, as defined in G.S. 159-39, a hospital that has been sold or conveyed pursuant to G.S. 131E-8, a State-owned or State-operated hospital, or by persons acting for or on behalf of a hospital, in connection with the credentialing and peer review of persons having or applying for privileges to practice in the hospital is confidential and is not a public record under Chapter 132 of the General Statutes; provided that information otherwise available to the public shall not become confidential merely because it was acquired by the hospital or by persons acting for or on behalf of the hospital. (1993 (Reg. Sess., 1994), c. 570, s. 10; 1995, c. 509, s. 135.2(r).)

**§ 131E-97.3. Confidentiality of competitive health care information.**

(a) For the purposes of this section, competitive health care information means information relating to competitive health care activities by or on behalf of hospitals and public hospital authorities. Competitive health care information does not include any of the information hospitals and ambulatory surgical facilities are required to report under G.S. 131E-214.12. Competitive health care information shall be confidential and not a public record under Chapter 132 of the General Statutes; provided that any contract entered into by or on behalf of a public hospital or public hospital authority, as defined in G.S. 159-39, shall be a public record unless otherwise exempted by law, or the contract contains competitive health care information, the determination of which shall be as provided in subsection (b) of this section.

(b) If a public hospital or public hospital authority is requested to disclose any contract which the hospital or hospital authority believes in good faith contains or constitutes competitive health care information, the hospital or hospital authority may either redact the portions of the contract believed to constitute competitive health care information prior to disclosure, or if the entire contract constitutes competitive health care information, refuse disclosure of the contract. The person requesting disclosure of the contract may institute an action pursuant to G.S. 132-9 to compel disclosure of the contract or any redacted portion thereof. In any action brought under this subsection, the issue for decision by the court shall be whether the contract, or portions of the contract withheld, constitutes competitive health care information, and in making its determination, the court shall be guided by the procedures and standards applicable to protective orders requested under Rule 26(c)(7) of the Rules of Civil Procedure. For the purposes of this section, competitive health care information includes, but is not limited to, contracts entered into by or on behalf of a public hospital or public hospital authority to purchase a medical practice. Before rendering a decision, the court shall review the contract in camera and hear arguments from the parties. If the court finds that the contract constitutes or contains competitive health care information, the court may either deny disclosure or may make such other appropriate orders as are permitted under Rule 26(c) of the Rules of Civil Procedure.

(c) Nothing in this section shall be deemed to prevent an elected public body, in closed session, which has responsibility for the hospital, the Attorney General, or the State Auditor from having access to this confidential information. The disclosure to any public entity does not affect the confidentiality of the information. Members of the public entity shall have a duty not to further disclose the confidential information. (1993 (Reg. Sess., 1994), c. 570, s. 10; 2001-516, s. 5; 2007-508, s. 8.5; 2013-382, s. 10.4.)

**§ 131E-98. Inmate medical records.**

Notwithstanding any other provision of law, a hospital does not breach patient confidentiality by providing the Division of Adult Correction and Juvenile Justice of the Department of Public Safety with the medical records of inmates who receive medical treatment at the hospital while in the custody of the Division. A hospital complying with a

request from the Division of Adult Correction and Juvenile Justice of the Department of Public Safety or its agent for a copy of the medical records of an inmate who received medical services while in custody shall be immune from liability in any civil action for the release of the inmate's medical record. (1993, c. 321, s. 178(b); 2011-145, s. 19.1(h); 2017-186, s. 2(wwwwww).)

**§ 131E-99. Confidentiality of health care contracts.**

Except for the information a hospital or an ambulatory surgical facility is required to report under G.S. 131E-214.12, the financial terms and other competitive health care information directly related to the financial terms in a health care services contract between a hospital or a medical school and a managed care organization, insurance company, employer, or other payer is confidential and not a public record under Chapter 132 of the General Statutes. Nothing in this section shall prevent an elected public body which has responsibility for the hospital or medical school from having access to this confidential information in a closed session. The disclosure to a public body does not affect the confidentiality of the information. Members of the public body shall have a duty not to further disclose the confidential information. (1995 (Reg. Sess., 1996), c. 713, s. 2; 1997-123, ss. 1, 2; 2013-382, s. 10.5.)